

recommended that the proposed rule be modified such that initial SIPs would not be required to have source-specific amounts for each source. Instead, these commenters recommended that EPA allow the initial SIPs to include a formula that will be used to calculate the allowances when the program is triggered.

Second, the WRAP and one environmental group commenter recommended specific regulatory language for reserving a portion of allowances for renewable energy resources such as wind, solar photovoltaic and solar thermal technologies, geothermal, landfill gas and biomass technologies, and hydropower projects meeting Low-impact Hydropower Institute criteria. This regulatory language consisted of a regulatory definition of "eligible energy resource." In addition, the recommendation included specific regulatory language for inclusion in 40 CFR 51.309(h)(4)(i) that would provide "eligible energy resources" with 2.5 tons of SO<sub>2</sub> allowances per megawatt of installed nameplate capacity per year.

**Final rule.** The EPA has amended the proposed rule as requested by the WRAP and other commenters. The EPA agrees that a clear and definitive formula for issuing source-specific allowances is an acceptable approach. The approach to distributing allowances described in the Annex provides for adjustments of the allocations over time, for example providing "bonus" allocations for early reductions. Because the allocations provide for adjustments over time, it is likely that individual source allocations could change between the date of the 2003 SIPs and the date a trading program would be triggered. Accordingly, EPA believes that re-calculation of the source-specific allowances when the program is triggered would be likely in any case. If the program is triggered, the subsequent SIP revision must include the source-specific allocations.

The EPA has also incorporated the WRAP's recommended provision regarding renewable energy credits. Given the WRAP's desire that this provision be a feature of the backstop trading program, EPA agrees that regulatory language is needed to ensure that this feature is included in SIPs. The EPA has incorporated the regulatory language recommended by the WRAP with two modifications. First, EPA includes only the first sentence of the WRAP's recommended definition ("Eligible renewable energy resource, for purposes of 40 CFR 51.309, means electricity generated by non-nuclear and non-fossil low or no air emission

technologies"). The EPA believes that it is not necessary to include, and would be difficult to interpret, the WRAP's recommended additional language limiting the definition to only those technologies "using resources that are virtually inexhaustible, reduce haze, and are environmentally beneficial." The EPA agrees with the WRAP that it is useful to clarify that this definition specifically includes:

- Electricity generated by wind energy technologies;
- Solar photovoltaic and solar thermal technologies;
- Geothermal technologies;
- Technologies based on landfill gas and biomass sources; and
- New low-impacts hydropower that meets the Low-Impact Hydropower Institute criteria.

Similarly, EPA agrees with the WRAP that it is useful to clarify that "biomass" includes agricultural, food and wood wastes, but does not include biomass from municipal solid waste, black liquor, or treated wood, and that for purposes of this definition, low-impacts hydropower does not include pumped storage. At the same time, EPA has concerns that the various lists in the WRAP's proposed definition may not be exhaustive, and that it would be preferable that the list be able to change without necessitating a change to 40 CFR 51.309.

The EPA has also included an amendment to 40 CFR 51.309(h)(4)(i) which requires that the backstop market trading program include the WRAP's recommended provision for renewable energy credits. This amendment requires SIPs under 40 CFR 51.309 to include a provision that eligible renewable energy resources that begin operation after October 1, 2000 will receive 2.5 tons of SO<sub>2</sub> allowances per megawatt of installed nameplate capacity per year. The rule also includes language consistent with the WRAP's recommendation that allowance allocations for renewable energy resources that begin operation prior to the program trigger will be retroactive to the time of initial operation. The EPA believes, however, that it is important for States to preserve flexibility over time with respect to implementing this provision. Accordingly, the final rule allows, but does not require, that implementation plans may provide for an upper limit on the number of allowances provided for eligible renewable energy resources.

## 2. Emissions Quantification Protocols

**Proposed rule.** The proposed rule required that implementation plans

under 40 CFR 51.309 must include specific emissions quantification protocols, that is, procedures for determining actual emissions. These procedures will be used to measure, or determine, annual emissions from each source in the trading program if the trading program is triggered. The proposed rule also required that States include the necessary monitoring, recordkeeping, and reporting provisions to measure and track results.

In the Annex, the WRAP recognized the need to have detailed and prescribed emission quantification protocols and recommended that the participating States and Tribes establish such provisions in the SIPs submitted under 40 CFR 51.309. The Annex describes the WRAP's approach to monitoring in section II, pages 39–41, in section III, item III.D.3 on page 64, and in Attachment A, Draft Model Rule section C.2.3 Monitoring Requirements, and section C9 Emissions Monitoring. In particular, the WRAP recognized the need for emission monitoring protocols which ensure that emissions estimates are accurate and comparable for participating sources. For the trading program, the emissions become a tradeable, fungible commodity. Accordingly, it is important to the integrity of the program to ensure that one ton of emissions from one source is equivalent to one ton of emissions from another source.

In the Annex, the WRAP proposed that sources subject to the acid rain program under title IV of the CAA would continue to follow the continuous emissions monitoring procedures in the acid rain program, which appear in 40 CFR part 75. Because continuous emissions monitoring represents the best available method for determining emissions, EPA would not require separate emission protocols for these sources as part of implementing 40 CFR 51.309.

For other categories of sources not covered by part 75, the WRAP in the Annex recognized the need to develop protocols based upon "best available" monitoring techniques for each source category. In the proposed rule, for source categories with sources in more than one State submitting an implementation plan under 40 CFR 51.309, EPA required each State to use the same protocol. Further, in the proposal, EPA included criteria for determining the acceptability of these protocols in the implementation plans. These criteria are the same criteria listed in section 5.2 and 5.3 of EPA's Economic Incentive Program (EIP) guidelines. These guidelines state that emission quantification protocols: